

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1347 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 7.1-3-26-6, AS ADDED BY P.L.165-2006,
- 4 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 6. (a) A seller may sell
- 6 and ship wine directly only to a consumer who meets all of the
- 7 following requirements:
- 8 (1) The consumer is at least twenty-one (21) years of age.
- 9 (2) The consumer has an Indiana address.
- 10 (3) The consumer intends to use wine purchased under this
- 11 chapter for personal use only and not for resale or other
- 12 commercial purposes.
- 13 (4) Except as provided in subdivision (5), the consumer has
- 14 provided to the seller in one (1) initial face-to-face transaction at
- 15 the seller's place of business appearing on the seller's application
- 16 for a direct wine seller's permit or any locations authorized by
- 17 IC 7.1-3-12-5 all the following:
- 18 (A) Name, telephone number, Indiana address, or consumer's
- 19 Indiana business address.
- 20 (B) Proof of age by a state issued driver's license or state
- 21 issued identification card showing the consumer to be at least
- 22 twenty-one (21) years of age.
- 23 (C) A verified statement, made under penalties for perjury,
- 24 that the consumer satisfies the requirements of subdivisions

1 (1) through (3).

2 (5) If:

3 (A) before April 1, 2006, the consumer has engaged in a  
4 transaction with a seller in which the seller sold wine to the  
5 consumer and, after April 1, 2006, but before December 31,  
6 2006, the consumer provides the seller with a verified  
7 statement, made under penalties for perjury, that the consumer  
8 is at least twenty-one (21) years of age; and

9 (B) the seller:

10 (i) provides the name and Indiana address of the consumer  
11 to the commission before January 15, 2007; or

12 (ii) **submits the name and Indiana address of the**  
13 **consumer to the commission after January 14, 2007, and**  
14 **pays the late fee imposed under subsection (b);**

15 the seller may sell directly to the consumer in accordance with  
16 this chapter.

17 **(b) Subject to subsection (c), if a seller fails to submit the name**  
18 **and Indiana address of a consumer to the commission before**  
19 **January 15, 2007, as required under subsection (a)(5)(B)(i), the**  
20 **commission shall impose a late fee of ten dollars (\$10) for each day**  
21 **after January 15, 2007, that the seller fails to provide the name and**  
22 **Indiana address of the consumer to the commission. However, the**  
23 **commission may waive the late fee if the commission determines**  
24 **that the circumstances make the imposition of the late fee**  
25 **inappropriate.**

26 **(c) A late fee imposed under subsection (b) may not exceed a**  
27 **total of five hundred dollars (\$500).**

28 SECTION 2. IC 7.1-3-26-9, AS ADDED BY P.L.165-2006,  
29 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 9. A direct wine seller's  
31 permit entitles a seller to sell and ship wine to a consumer by receiving  
32 and filling orders that the consumer transmits by electronic or other  
33 means if all of the following conditions are satisfied before the sale or  
34 by the times set forth as follows:

35 (1) The consumer provides the direct wine seller with the  
36 following:

37 (A) The verification required by section ~~6(4)~~ **6(a)(4)** of this  
38 chapter in an initial face-to-face transaction.

39 (B) Notwithstanding clause (A), if the consumer provided the  
40 information specified in section ~~6(5)(A)~~ **6(a)(5)(A)** of this  
41 chapter after April 1, 2006, but before December 31, 2006,  
42 and the seller provides:

43 (i) the name and Indiana address of the consumer under  
44 section ~~6(5)(B)~~ **6(a)(5)(B)(i)** of this chapter to the  
45 commission before January 15, 2007; or

46 **(ii) the name and Indiana address of the consumer under**

1                   **section 6(a)(5)(B)(ii) of this chapter after January 14,**  
 2                   **2007, and pays the fee imposed under section 6(b) of this**  
 3                   **chapter;**

4                   the consumer is not required to comply with section ~~6(4)~~  
 5                   **6(a)(4)** of this chapter.

6                   (2) The direct wine seller meets the following requirements:

7                   (A) Maintains for two (2) years all records of wine sales made  
 8                   under this chapter. If the records are requested by the  
 9                   commission, a direct wine seller shall:

10                   (i) make the records available to the commission during the  
 11                   direct wine seller's regular business hours; or

12                   (ii) at the direction of the commission, deliver copies to the  
 13                   commission.

14                   (B) Stamps, prints, or labels on the outside of the shipping  
 15                   container the following: "CONTAINS WINE. SIGNATURE  
 16                   OF PERSON AGE 21 OR OLDER REQUIRED FOR  
 17                   DELIVERY.".

18                   (C) Causes the wine to be delivered by the holder of a valid  
 19                   carrier's alcoholic beverage permit under IC 7.1-3-18.

20                   (D) Directs the carrier to verify that the individual personally  
 21                   receiving the wine shipment is at least twenty-one (21) years  
 22                   of age.

23                   (E) Does not ship to any consumer more than two hundred  
 24                   sixteen (216) liters of wine in any calendar year.

25                   (F) Remits to the department of state revenue monthly all  
 26                   Indiana excise, sales, and use taxes on the shipments made  
 27                   into Indiana by the direct wine seller during the previous  
 28                   month.

29                   SECTION 3. IC 7.1-3-26-15, AS ADDED BY P.L.165-2006,  
 30                   SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31                   JANUARY 1, 2007 (RETROACTIVE)]: Sec. 15. (a) Except as  
 32                   provided in subsections (b) and (c), a seller who violates this chapter  
 33                   commits a Class A infraction.

34                   (b) Except as provided in subsection (d), a seller who:

35                   (1) knowingly or intentionally violates this chapter; and

36                   (2) has one (1) prior unrelated conviction or judgment for an  
 37                   infraction under this section for an act or omission that occurred  
 38                   not more than ten (10) years before the act or omission that is the  
 39                   basis for the most recent conviction or judgment for an infraction;  
 40                   commits a Class A misdemeanor.

41                   (c) Except as provided in subsection (d), a seller who:

42                   (1) knowingly or intentionally violates this chapter; and

43                   (2) has at least two (2) prior unrelated convictions or judgments  
 44                   for infractions under this section for acts or omissions that  
 45                   occurred not more than ten (10) years before the act or omission  
 46                   that is the basis for the most recent conviction or judgment for an

1           infraction;  
2       commits a Class D felony.

3       (d) A person who violates section ~~6(5)~~ **6(a)(5)** of this chapter  
4       commits a Class A infraction. The commission may consider an  
5       infraction committed under this subsection in its determination of  
6       whether to renew a seller's permit.

7       SECTION 4. IC 7.1-3-26-16, AS ADDED BY P.L.165-2006,  
8       SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9       JANUARY 1, 2007 (RETROACTIVE)]: Sec. 16. If a direct wine seller  
10      is charged under section 15 of this chapter with selling to a consumer  
11      who does not meet the requirements of section 6 of this chapter, it is a  
12      defense to the charge if the direct wine seller obtained from the  
13      consumer the verified statement required under section ~~6(4)(C)~~  
14      **6(a)(4)(C) and or 6(5)(A) 6(a)(5)(A)** of this chapter and produces a  
15      copy of the verified statement."

16      Renumber all SECTIONS consecutively.

          (Reference is to HB 1347 as printed February 20, 2007.)

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Representative Welch